

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA

v.

2:06CR93

JOSEPH HOLLEY

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered a guilty plea to conspiracy to commit health care fraud, in violation of 18 U.S.C. 371.

Defendant was represented by appointed counsel, Charles Lustig, Esquire. On July 19, 2006, defendant appeared before the Court for the purpose of entering his guilty plea. He was appropriate in appearance, responsive, and competently prepared for the hearing.

Defendant answered all questions put to him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was placed on a surety bond and may be released after the bond has been posted.

Defendant is twenty-eight years of age, went to school through the eleventh grade and acquired his GED, and speaks English as his native language. There was no evidence that defendant was on drugs, alcohol,

or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered the guilty plea pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, ye acknowledged that the statement of facts prepared in anticipation of his plea accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offense charged is supported by independent facts, establishing each of the essential elements of such offense. Therefore, the Court recommends that the guilty plea be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b) (1) (B).

Norfolk, Virginia

July 19, 2006

/s/
James E. Bradberry
United States Magistrate Judge

Clerk's Mailing Certificate

A copy of the foregoing Report was mailed this date to each of the following:

Charles Lustig, Esquire
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Norfolk, VA 23510

Monique Hutten, Esquire
Special Assistant U.S. Attorney
United States Attorney's Office
101 West Main Street, Suite 8000
Norfolk, VA 23510

Fernando Galindo, Acting Clerk

By _____
Deputy Clerk

_____, 2006